United States Court of Appeals

for the Second Circuit

SUPPLEMENTAL APPENDIX

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75-7096

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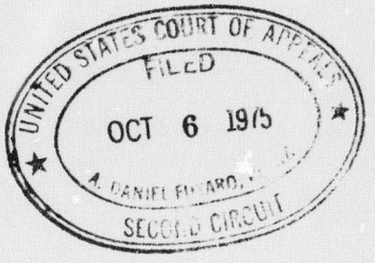
For the Second Circuit.



SAMUEL H. SLOAN,

Plaintiff-Appellant,

-against-

CANADIAN JAVELIN LTD., et al.,

Defendants-Appellees.

B Pls

On Appeal From The United States District Court For The Southern District Of New York

SUPPLEMENTAL APPENDIX

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DECISION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
- -x

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- against -

73 Civ. 3801

CANADIAN JAVELIN LTD., et al.

Defendants.
- -x

SAMUEL H. SLOAN,

Plaintiff,

- against -

73 Civ. 4403

CANADIAN JAVELIN LTD., et al.

Defendants.
- -x

(Appearances omitted)

BONSAL, D. J.

The plaintiff, Samuel H. Sloan, instituted this action pro se on September 4, 1973. Mr. Sloan (who was the sole proprietor and manager of Samuel H. Sloan & Company, a broker-dealer registered with the Securities and Exchange Commission until August 16, 1973, when its offices were closed) is a familiar pro se litigant in this Court. He appeared pro se in an action brought by the Securities and Exchange Commission ("S.E.C.") to enjoin him and his brokerage firm from violating the Securities Exchange Act of 1934 and the Rules promulgated thereunder by failing to maintain proper records and by failing to observe the net capital rules. In that action, a preliminary injunction was entered on June 24, 1971, and a permanent injunction was granted on January 7, 1974. See S.E.C. v. Samuel H. Sloan & Co., 369 F. Supp. 996 (S.D.N.Y. 1974). In another case, Mr. Sloan, as plaintiff pro se, instituted an action against the President and Vice-President of the United States to enjoin them from continuing in their offices and to annul the appointments of the Chief Justice of the United States and three Associate Justices of the Supreme Court. This complaint was dismissed, Sloan v. Nixon, 60 F.R.D. 228 (S.D.N.Y. 1973), and the dismissal was affirmed without opinion by the Court of Appeals on February 26, 1974.

In this motion, Mr. Sloan appears per se in the role of an allegedly defrauded investor in connection with his purchases and sales of the stock of defendant Canadian Javelin Limited ("CJV"). Plaintiff alleges in the most recent amended complaint, which was filed on December 29, 1973[1] ("the amended complaint of December 29, 1973"), that the "acts and transaction (Performed by the defendants) ... constitute violations of Sections 5, 12, 15 and 17 of the Securities Act (of 1933), Sections 9(a), 10(b), 13(d), 15(c) and 18(a) of the (Securities) Exchange Act (of 1934), Rules 10(b)-5 and 15(c) 3-3 promulgated thereunder, the rules of the New York Stock Exchange, the American Stock Exchange and the National Association of Securities Dealers, state law and the principles of common law." The amended complaint of December 29, 1973 alleges that plaintiff is "both a purchaser and a seller of shares of (CJV)," and that "(p)laintiff was at all times from January to August of 1973 a short seller of (CJV) shares." While the amended complaint of December 29, 1973, does not set forth the dates of each of plaintiff's transactions nor the prices at which the shares were purchased or sold by plaintiff, it does allege that from June 21, 1973 to August 16, 1973, "plaintiff held a substantial short position (CJV) shares" and that he had "entered purchase orders with various stock brokers...which, had these orders been filled, would have covered his short position." With respect to his alleged injury plaintiff alleges that while he was in short position, the price of CJV stock on the American

Stock Exchange ("AMEX") went up by reason of allegedly false press releases, stockholders' letters, and the annual report issued by the company and its officers and by reason of the publication of articles in newspapers, financial advisors' newsletters, and a mining industry trade journal; and that he was unable to cover his short position because of the conspiracy of the defendants, including AMEX, brokers, and broker-dealers, in not honoring his orders to buy. Alleging that he has suffered great financial loss by reason of the activities of the defendants, Mr. Sloan instituted this dragnet lawsuit, naming as defendants CJV, two of its subsidiaries, AMEX, various financial publications, a number of brokers and broker-dealers, a Newfoundland engineering concern, and a former Deputy Minister of Economic Development of Newfoundland, together with a number of officers and directors of corporate defendants. There are 48 defendants in all.

The amended complaint of December 29, 1973 is a voluminous document of 43 pages and consisting of 253 numbered paragraphs. It contains ten counts. In the first count, Sloan alleges that CJV has never filed a registration statement as requred by the Securities Act of 1933 and that defendants either permitted CJV's shares to be purchased and sold or themselves purchased and sold CJV shares in the absence of a registration statement.

In count 2, Sloan alleges that due to the publication and dissemination to the investing public in the first nine months of 1973 of allegedly false and misleading statements and reports, the price of CJV shares rose sharply and plaintiff was thereby unable profitably to cover his short position in CJV shares. The statements and reports alleged to have been false and misleading concerned an alleged major find of copper in Panama and were to the effect that CJV had the right to exploit the find and that development of the properties in Panama was about to commence. In count 3, Sloan alleges that CJV's 10-K, 8-K and 10-Q reports filed with the S.E.C. are "invalid on their face." In count 4, Sloan alleges that the proxy statement sent by CJV "pursuant to its annual meeting of May 9, 1973 failed to disclose material information." In count 5, Sloan alleges that defendants John C. Doyle ("Doyle") and Anglo American Corp. failed to make timely disclosures of their transactions in CJV stock. In count 6, Sloan alleges that defendants conspired to manipulate the market in CJV shares by creating a misleading appearance of active trading. In count 7, Sloan alleges that AMEX failed to regulate and supervise defendants Dyer, Maguire, Dritz & Co. ("Dyer"), a specialist, and Burns Bros. & Timmins, Inc. ("Timmins"), a floor trader in CJV shares. In count 8, Sloan alleges that various defendants were negli-

gent in permitting false and misleading information to be disseminated about CJV. In count 9, Sloan alleges that defendants CJV and Doyle have violated an S.E.C. injunction issued on September 25, 1958. And in count 10, Sloan alleges that various broker defendants conspired with AMEX to cancel Plaintiff's purchase orders for CJV shares, as a result of which plaintiff was unable to cover his short position in CJV shares and allegedly was forced to go out of business on August 16, 1973. Plaintiff seeks "actual damages" in the amount of $2,063,000, a "declaratory judgment in the amount of $125,000", "punitive and exemplary damages in the amount of $5,000,000"[(2)], plus interest and costs.

While the ad damnum asks for actual damages, a declaratory judgment, and punitive and exemplary damages, plus costs, the document reads as though Mr. Sloan was substituting himself for the S.E.C. in seeking to enforce the antifraud provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934 with respect to CJV and the numerous defendants named. Indeed, the S.E.C. has already instituted an action in this Court (S.E.C. v.Canadian Javelin Limited, et al., 73 Civ. 5074) against CJV, Doyle (a Director and Chairman of its Executive Committee), and William M. Wismer ("Wismer") (its President), which action is presently pending before Judge McMahon.

The S.E.C. complaint charges the defendants with dissemination of false and misleading material information, particularly with respect to a press release of June 22, 1973 and a press release issued by Bison Petroleum and Minerals, Ltd. ("Bison") on July 5, 1973, which are also subjects of Mr. Sloan's complaint here. Mr. Sloan has moved to consolidate the S.E.C. action (73 Civ. 5074) with this action (73 Civ. 3801 and 73 Civ. 4403), which motion has been opposed by the S.E.C. In support of his motion to consolidate, Mr. Sloan states the following as among his reasons: "if it is necessary for Sloan to appeal he may be able to share costs with his friends at the Commission", "the Commission is able to obtain a limited amount of cooperation from the defendants while Sloan has been unable to do so"; "(i)f these actions are consolidated, Sloan's chance of success against Javelin, Doyle and Wismer will be increased and therefore the other defendants will have less to worry about"; and "Sloan would appreciate all the free legal help from the S.E.C. he can get."

The S.E.C.'s opposition to consolidation is that its action is "primarily a statutory action, basically in equity, to protect the investing public from future violative activity of the securities laws and to seek equitable relief in regard to future activities." Parenthetically, it may be noted that Mr. Sloan's desire to cooperate with the S.E.C. is of recent vintage.

in a statement sworn to on December 29, 1973, which appears at the end of the amended complaint of December 29, 1973 but appears to have no relevance to it, Mr. Sloan makes the following statement:

> "I submit that my records were in my office at all times during the course of a three year period when I was in business and the Commission staff chose to examine them on only a handful of occasions. Their late blossoming interest in my records stemmed solely from a desire to engage in a fishing expedition to develop new theories on which to base their case in court."

Accordingly, plaintiff's motion to consolidate 73 Civ. 3801 and 73 Civ. 4403 with 73 Civ. 5074 is denied.

This litigation has had a varied course, beginning on September 4, 1973, when plaintiff filed his first complaint (73 Civ. 3801). The original complaint alleged that CJV and the eight others named as defendants disseminated or played a part in the dissemination to the investing public of false and misleading information about CJV, as a result of which plaintiff alleged he "suffered greatly"; plaintiff sought actual and punitive damage in the amount of $150,000 plus costs. Three of the defendants moved to dismiss the complaint, but prior to the return data on those motions, plaintiff filed another complaint on October 12, 1973 (73 Civ. 4403), naming as defendants all but one of the original nine defendants(3) and 24 others.

The October 12, 1973 complaint, alleged that CJV "employed a wide variety of fraudulent means to cause an artificial

rise in the price of its stock"; that AMEX gave"its official sanction to these fraudulent and manipulative practices"; and that the defendants disseminated or participated in the dissemination of false and misleading information about CJV. The October 12, 1973 complaint alleged that plaintiff engaged in "purchases, sales, and borrowings" of CJV shares, which allegedly "were effected either directly or indirectly to or through the sixteen stock brokerage firms" named as defendants. Plaintiff also alleged that at the time of the filing of the October 12, 1973 complaint, he was "the registered owner of 13 shares" of CJV stock.(4) Plaintiff sought damages in the amount of $170,000, plus costs and interest.

Plaintiff then prepared, but did not file, a "proposed amended complaint," copies of which he states were mailed to all of the attorneys for the defendants who had then appeared in either action. Several defendants then moved to dismiss all of the pending complaints, which motions were made returnable on November 19, 1973. At oral argument on November 19, 1973 with plaintiff present, the Court denied the defendants' motions to dismiss without prejudice to renewal, and granted leave to the plaintiff to serve and file a "final" amended complaint within twenty days. On December 29, 1973, nineteen days after the twenty-day period had expired, plaintiff filed the present

amended complaint.

Defendants CJV; Bison; Canada Permanent Trust Company ("CPT"); Wismer; Loeb, Rhodes & Box. ("Loeb"), Standard & Poor's Corporation ("S&P"); AMEX; Pressman, Frohlich & Frost, Inc. ("Pressman"),[5] Stewart Pinkerton ("Pinkerton"); McGraw-Hill, Inc. ("McGraw"); Wright Engineers Limited ("Wright"); and Miller-Freeman Publications, Inc. ("Miller") move pursuant to Rule 12(b), Fed.R.Civ.P., to dismiss the amended complaint of December 29, 1973 as against them. Defendants have asserted various grounds in support of the motions, including the failure of the plaintiff to serve and file a timely "final" amended complaint. Edwards & Hanly ("Edwards") moves pursuant to Rule 12(c), Fed.R.Civ.P., for judgment on the pleadings on the grounds that the Court lacks subject matter jurisdiction, that an action for the identical relief sought here is pending in the Supreme Court of the State of New York, and that the amended complaint of December 29, 1973 fails to state a claim upon which relief may be granted. Defendants Chartered New England Corporation ("Chartered") and F.S. Moseley, Estabrook ("Mosley") move pursuant to Rule 21(b) and 12(f), Fed.R.Civ.P., to dismiss or strike the amended complaint of December 29, 1973 as against them on the grounds that the plaintiff failed to comply with this Court's order of November 19, 1973 (granting leave to plaintiff to serve and file a final amended complaint within twenty days of November 19, 1973.

Defendant The Miami Herald ("Herald") moves pursuant to Rule 56, Fed.R.Civ.P., for summary judgment dismissing the amended complaint of December 29, 1973 against it on the ground that there is no genuine issue of fact to be tried. Defendant Bache & Co., Inc. ("Bache") moves pursuant to Rule 54(b), Fed.R.Civ.P., for an order directing the clerk to enter a final judgment by default on Bache's counterclaim against the plaintiff in this action.

Plaintiff moves pursuant to Rule 56(a), Fed.R.Civ.P., for summary judgment against defendants CJV, AMEX, S&P, the Herald, Dow Jones and Co., Inc. ("Dow Jones"), Pinkerton, Bison, Wismer, CPT, Steven L. Gerard ("Gerard"), McGraw, Edwards, Robert Della ("Della"), Arthur Foote ("Foote"), and Raymond Aronson ("Aronson") on the ground that no triable issues of fact exist with respect to these defendants. Plaintiff also moves pursuant to Rule 56(a), Fed.R.Civ.P., for summary judgment against defendant Wright, or in the alternative, pursuant to Rule 37(a), Fed.R. Civ.P., for an order compelling discovery of documents from Wright. Plaintiff also moves for an order staying four state court actions that have been commenced against him by defendants in this action.

In their motions to dismiss the amended complaint of December 29, 1973, defendants contend that it fails to state a cause of action in that plaintiff has failed to allege "causation, reliance or standing to sue." In addition, defendants contend

that plaintiff's allegedly

this action. The amended complaint of December 29, 1973 describes in detail the alleged false press releases and manipulative activities of some of the named defendants, but it fails to show that Mr. Sloan was in any way directly injured thereby. On the contrary, Mr. Sloan describes a trip he took to Panama to examine an alleged CJV copper find, his study of its timber project in Labrador, and his study of the information set forth in press releases and other reports about CJV. Mr. Sloan admits that he knew all along that information disseminated by CJV and its officers and published in the various financial media named as defendants was false. It appears that he was not a victim of the fraud, if one was committed. Nor does it appear that he imparts his knowledge to other potential investors. Instead, it appears he sought to capitalize on the fraud. There is no authority for the proposition that one who uses the fraud of another for his own personal advantage has a claim under the Securities Act of 1933 or under the Secutiries Exchange Act of 1934 when that fraud is later exposed. Cf. Kuehnert v. Texstar Corporation, 412 F. 2d 700 (5th Cir. 1969); Chris-Craft Industries, Inc. v. Independent Stockholders Committee, 354 F.Supp. 895, 921-22 (d.Del. 1973).

Defendants also move to dismiss the amended complaint of December 29, 1973 on the grounds that it was not filed until after

twenty-day period had expired and that it is therefore untimely. In a memorandum in opposition to the motions to dismiss, plaintiff states that from December 11, 1973 to December 22, 1973, he was on trial as a defendant in the action brought by the S.E.C. to enjoin him from violating the Securities Exchange Act of 1934 and Rules promulgated thereunder (S.E.C. v. Sloan, supra). Plaintiff contends that because of this trial, he could not devote his "full attention to preparing the amended complaint" until after the trial had been concluded, but that thereafter he has prosecuted this action with diligence.

Defendants, however, contend in support of their motions to dismiss the amended complaint of December 29, 1973 that plaintiff had no adequate excuse for his failure to comply with this Court's order of November 19, 1973 and that the numerous complaints and motions filed by the plaintiff have caused them undue prejudice.

Rule 41(b), Fed.R.Civ.P., provides:

> "For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against him."

As the Court of Appeals has stated:

> "Under [Rule 41(b)] and the inherent power of a court to dismiss for failure to prosecute, a district judge may, sua sponte, and without notice to the parties, dismiss a complaint for want of prosecution,

> and such dismissal is largely a matter of the judge's discretion. (citing cases)"

Taub v. Hale, 355 F.2d 201, 202 (2d Cir. 1966). See Link v. Wabash R.R., 370 U.S. 626 (1962); Redac Project 6426, Inc. v. Allstate Insurance Co., 412 F.2d 1043 (2d Cir. 1969); 5. J. MOORE, FEDERAL PRACTICE Par. 41.11 - 41.12 (2d ed. 1964). The factors to be weighed have been enumerated by the Court of Appeals for the Ninth Circuit in States Steamship Co. v. Philippine Air Lines, 426 F. 2d 803, 805 (9th Cir. 1970):

> "(1) the (plaintiff's) right to a hearing on its claim, (2) the impairment of (defendants') defenses presumed from the unreasonable delay, (3) the wholesome policy of the law in favor of the prompt disposition of law suits, and (4) the duty of the (plaintiff) to proceed with due diligence."

Here, the Court notes that the twenty-day period granted plaintiff in order to serve and file his "final" amended complaint began on November 19, 1973 and ended on December 10, 1973. An amended complaint was not filed until December 29, 1973 -- nineteen days later. The trial in which plaintiff was involved did not commence until December 11, 1973, which was after the period for serving and filing his amended complaint in this action had already expired. Plaintiff also states that immediately after he filed the amended complaint of December 29, 1973 he left for Iceland. Even though he had notice that several defendants had made motions to dismiss the amended complaint of December 29, 1973 and that these motions were re-

turnable on January 14, 1974, plaintiff was not present in court for oral argument on the motions. Instead, he sent a clerk from his office to inform the Court that he was traveling through Europe and would not return to the United States until February 11, 1974.

It appears from the affidavits submitted in connection with the present motions that four actions have been commenced in the New York State courts by Chartered; Weiss & Baer, Inc.; Pressman; and Edwards against Mr. Sloan for damages in connection with purchases by the four brokerage firms of CJV shares which Mr. Sloan allegedly was unable to deliver and as to which the brokerage firms allege they were compelled to execute "buy-ins." In two of these actions, motions for summary judgment against Mr. Sloan have been granted. Plaintiff's attempt to delay the disposition of those actions by his naming of each of the four brokerage firms as a defendant in this action and by his moving to have the state actions stayed is evidence of the undue burden that defendants may have to bear if this cumbersome action in the federal court is permitted to interfere with the progress of the state court actions.

Moreover, each of the 48 defendants in this action has been required to engage in costly and time-consuming motion practice in responding to plaintiff's complaints as well as his

numerous and frivolous motions and other court filings. While the plaintiff is entitled to his day in court, and in addition, since he appears pro se, is entitled to a degree of latitiude in the framing of pleadings and motions, it is unfair and prejudicial to the defendants here if they are required to engage in round upon round of costly and time-consuming motion practice directed to a complaint that the plaintiff did not even timely file.

Plaintiff, who it appears is an experienced trader in the securities markets had three opportunities to frame an adequate complaint prior to the Court's granting him his "final" opportunity on November 19, 1973. In each of the first three instances, the complaint failed to meet the specificity requirements of Rule 9(b), Fed.R.Civ.P., with respect to each defendant. As the Court of Appeals said in Segal v. Gordon, 467 F.2d 602, 607 (2d Cir. 1972):

> "'Mere conclusory allegations to the effect that defendant's conduct was fraudulent or in violation of Rule 10b-5 are insufficient' (citing Shemtob v. Shearson, Hammill & Co., 448 F.2d 442, 444 (2d Cir. 1971): '...there must be allegation of facts (in a complaint under Rule 10b-5) amounting to deception in one form or another.' (citing O'Neill v. Maytag, 339 F.2d 764, 768 (2d Cir. 1964))."

In discussing the rationale behind this rule, the Court of Appeals said:

> "Rule 9(b)'s specificity requirement stems not only from the desire to minimize the number of strike suits but also moreparticularly from the desire to protect defendants from the harm that comes to their reputations or to their goodwill when they are charged with serious wrongdoing." 467 F.2d at 607.

Because allegations of fraud made against accountants and othe others whose business depends on clients' trust and confidence can threaten their entire professional status, Rule 9(b) requires that plaintiffs set forth more completely than in an ordinary complaint the factual circumstances that allegedly entitle them to relief. See Frazier v. Stellar Industries, Inc., 72 Civ. 2829 (C.D. Cal. memorandum opinion filed November 15, 1973).

In light of the standards of Rule 9(b), the amended complaint of December 29, 1973 lacks the required specificity, such as with respect to whether plaintiff relied on the alleged false and misleading statements and reports, whether the alleged fraudulent statements were made in connection with a purchase or sale of a security by him and whether the injuries of which plaintiff complains were caused in fact by defendants' alleged fraudulent activities. See Shapiro v. Merrill Lynch, Pierce, Fenner & Smith Inc., F.2d , Dkt. No. 73-1677 (2d Cir., filed April 3, 197).

Since plaintiff has had ample opportunity to frame a complaint meeting the requirements of the federal securities laws and the Federal Rules of Civil Procedure, permitting a further opportunity to amend the complaint would only further

delay the ultimate disposition of this action. Had the final amended complaint been filed within the period directed by the Court, it would have been dismissed as to all of the defendants except CJV, Doyle, and Wismer, and stayed as to these defendants pending final determination of the S.E.C. action (73 Civ. 5074). However, in view of the untimeliness, defendants' motions to dismiss the amended complaint of December 29, 1973 pursuant to Rule 41(b), Fed.R.Civ.P., are granted and all pending complaints are dismised with prejudice as to all defendants, except that with respect to CJV, Doyle, and Wismer, all pending complaints are dismissed without prejudice. Since the statute of limitations has not run, Mr. Sloan may, if he is so advised, institute a new action by filing a new complaint meeting the requirements of the federal securities law and the Federal Rules of Civil Procedure with respect to CJV, Doyle and Wismer.

Plaintiff having filed a reply to defendant Bache's counterclaim on May 7, 1974, Bache's motion for a final judgment by default pursuant to Rule 54(a), Fed.R.Civ.P., is denied.

Because of this disposition, the Court does not reach the other motions presented.

Settle order on notice.

Dated: New York, N.Y.
May 30, 1974

s/
U.S.D.J.

Footnotes follow.

FOOTNOTES

(1) Because December 29, 1973 was a Saturday, the amended complaint was not file-stamped until January 2, 1974. A handwritten notation, however, appears on the face of the amended complaint indicating that it was received in the Clerk's office on December 29, 1973.

(2) In actions under the Secuirities Exchange Act of 1934, punitive and examplary damages are not recoverable. 15 U.S.C. Sec. 78bb(a). Seen Green v. Wolf Corporation, 406 F.2d 291, 302-03 (2d Cir. 1968), cert. denied, 395 U.S. 977 (1969).

(3) A stipulation dismissing the action as against defendant George B. Mickum was filed on October 9, 1973.

(4) While the amended complaint of October 12, 1973 alleges that plaintiff was then "the registered owner of 13 shares" of CJV stock, the amended complaint of December 29, 1973 contains no allegation with respect to what becaume of those 13 shares and also no allegation that plaintiff still owns any shares of CJV.

(5) Pressman also moves for an order enjoining the plaintiff from "further annoyance and harassment of the defendants herein."

(6) Wright also moves pursuant to Rule 26(c), Fed.R.Civ.P., for an order that no discovery may be had against it prior to a determination of its motion to dismiss.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL H. SLOAN,

Plaintiff,

-against-

CANADIAN JAVELIN LTD.; AMERICAN STOCK EXCHANGE; DOW JONES & CO.; JOHN C. DOYLE; WILLIAM M. WISNER; LEE & MARTIN; STUART PINKERTON; STANDARD & POORS CORP.; BISON PETROLEUM & MINERALS LTD.; PAVONIA, S.A.; JOHN BOUCHARD; CANADA PERMANENT TRUST CO.; MIAMI HERALD; PICKANDS, MATHER & CO.; PETER LA RUSH; WRIGHT ENGINEERS LTD.; BACHE & CO., INC.; BOUCHARD & CO.; BURNS BROS. & TIMMINS INC.; CHARTERED NEW ENGLAND CORP.; DAVIDSON PARTNERS LTD.; DOMINEK & DOMINEK INC.; DYER MAGUIRE DRITZ & CO.; EDWARDS & HANLY; LOEB, RHOADES & CO.; MERRILL, LYNCH, PIERCE, FENNER, & SMITH; F.S. MOSELEY, ESTABROOK; MULLER & CO.; OSWALD, DRINKWATER & GRAHAM, LTD.; PRESSMAN, FROHLICH & FROST, INC.; WEIS & BAER INC.; WOOD, WALKER & CO., INC.;

Defendants.

73 Civil 3801
73 Civil 4403

AMENDED COMPLAINT

State of New York)
: ss.:
County of New York)

Samuel H. Sloan, being duly sworn, deposes and says:

1. Jurisdiction of this court arises under Section 27 of the Securities Exchange Act of 1934, 15 U.S.C. 78aa and the principles of pendent jurisdiction.

2. This action is brought under Rule 10(b)-5 and other rules of the Securities & Exchange Commission, under Sections 9(a), 10(b), and 18(a) of the Securities Exchange Act of 1934, under sections 5, 12, 15, and 17 of the Securities Act of 1933, under other securities laws, under the rules of the American Stock Exchange and the NASD, and under common law fraud, the law of contracts, and other principles of common law.

3. Canadian Javelin Ltd. ("Javelin") is a publicly owned Dominion corporation whose shares are listed and traded

on the American Stock Exchange. While chartered in Canada, the majority of its shareholders are U.S. citizens.

4. During the period of January to September 1973 directly and through its officers and employees, Javelin engaged in a wide variety of fraudulent means to cause a rise in the price of its stock. This recent fraud was an extention of a fraud which has spanned many years. Defendants American Stock Exchange ("AMEX"), Dow Jones & Co., John C. Doyle ("Doyle"), William M. Wismer ("Wismer"), Lee & Martin, Stuart Pinkerton ("Pinkerton"), Standard & Poors Corp., Bison Petroleum & Minerals Ltd. ("Bison"), Pavonia S.A. ("Pavonia"), John Bouchard, Canada Permanent Trust Co. ("Trust"), Miami Herald, Pickands, Mather & Co. Wright Engineers Ltd., Bouchard & Co., Burns Bros. & Timmins, Inc. ("Timmins"), and Dyer Maguire, Dritz & Co. ("Dyer") all acted in concert with defendant Javelin as part of a scheme to defraud. Defendant Doyle masterminded this scheme as he has masterminded many similar schemes in the past. He obtained the cooperation of the other above named defendants by contacting them directly or through his or their agents. He has maintained contacts with all of the above named defendants other than defendants Standard & Poors, Corp., Miami Herald, and Pickands, Mather & Co. over a period of many years and their help has enabled him to consummate numerous securities frauds involving Javelin, Bison, Dominican Jubilee, and the other publicly held corporations he controls.

5. The long history of fraud involving Javelin is well known to all of the defendants to this action.. Javelin was suspended from tradingby the S.E.C. from March 17, 1971 to April 5, 1971 and from March 7, 1972 to August 9, 1972. These suspensions occurred because of fraudulent and misleading statements made by officers of Javelin and because of the unavailability of adequate financial information concerning

Javelin. At the conclusion of the 1971 suspension the S.E.C. issued a release which was circulated to all brokers warning them of the possible consequences of trading in Javelin shares. The history of Javelin goes back to the early 1950's when defendant Doyle used to offer brokers cash payoffs to enter orders for Javelin shares. Some of the brokers named as defendants to this action or their officers, partners, or employees were either offered such payoffs by Doyle or knew that payoffs were being offered by Doyle to other brokers. The S.E.C. obtained an injunction against Doyle in 1958. Subsequently, when Doyle violated the terms of this injunction and committed various criminal acts he fled the country rather than serve a prison sentence. The most recent proxy statement of Javelin states:

> "A United States grand jury indictment was made public on August 7, 1963, charging violations of the Securities Act of 1933, against John C. Doyle, then Chairman of the Board and President, and three others. On February 4, 1965, Mr. Doyle withdrew his previous plea of not guilty to the indictment, and pleaded guilty to one count of the indictment which charged that he sent fifty shares of the stock of the Company through the mails for sale or delivery after sale without such stock having been registered with the Securities and Exchange Commission pursuant to the Securities Act of 1933. On May 3, 1965, Mr. Doyle was sentenced to pay a fine of $5,000 and to a sentence of three years, all but three months of which was suspended, with probation for one year. All other counts of the indictment were dismissed. The Company was not indicted. Following the unsuccessful appeal of Mr. Doyle's sentence, Mr. Doyle was to have appeared to commence serving the three-month sentence on July 15, 1965. He did not appear on that date and currently is considered to have illegally absented himself from the jurisdiction of the United States under the laws of the United States."

The fraudulent practices of defendants Javelin and Doyle have been the subject of numerous books, and magazine and newspaper articles, including articles in Barron's and the Wall Street Journal.

6. Defendant Amex has given its official sanction to these

fraudulent and manipulative practices by allowing Javelin to trade on the American Stock Exchange. It has facilitated the distribution of unregistered shares of Javelinto the public by permitting Javelin to trade even though Javelin shares have never been registered under the Securities Act of 1933. It has allowed additional unregistered Javelin shares to be sold onthe market by defendant Trust as a result of a 3% stock dividend declared by Javelin in 1971 and again in 1972. Plaintiff was told by defendant Wismer on the telephone that Javelin retains its listing on the AMEX because most Javelin shareholders hold their stock on margin with AMEX members and if Javelin were delisted these shares could no longer be held in margin accounts and the price of Javelin would fall. As a result of this assertion by defendant Wismer, plaintiff alleges this to be the case upon information and belief.

7. Defendant Dow Jones & Co. which operates both the Wall Street Journal and the Dow Jones News Service has knowingly printed numerous false, misleading, and untrue press releases about Javelin and has refused to print reliable but adverse information about Javelin.

8. Defendant Stuart Pinkerton who is the Montreal Branch Chief for Dow Jones & Co. and who has authority over and responsibility for all reports and stories about Javelin by Dow Jones & Co. has authorized these fraudulent practices.

9. Defendant John C. Doyle is the Chairman of the Board of Javelin and defendant William M. Wismer is the President of Javelin. They have disseminated false and misleading news releases to Dow Jones & Co. directly and through Javelin subsidiaries Bison Petroleum & Minerals Ltd. and Pavonia, S.A. These news releases have also gone to other representatives of the news media and to Javelin shareholders.

10. In early January, 1973 Javelin was selling for 5 7/8.

Since that time Javelin has stated through press releases, shareholders letters, and its annual report that through its subsidiaries Javelin has acquired mineral concessions for a total of 600,000 acres of land in Panama; that copper, gold, and silver deposits are to be found on those properties; that Javelin subsidiaries have the right to exploit and extract the copper and other minerals found on these properties; in that Javelin has discovered the largest proven copper reserves in the world on these properties; that Javelin has delineated an area of 2.2 billion tons of copper bearing minerals inthe Cerro Colorado area of Panama; that said copper mineralization is of a commercial grade; that preliminary reports show that a copper mine is commercially feasible; that Wright Engineers Ltd. is preparing a feasibility study based on a production capacity of 80,000 metric tons of copper ore per day; that a copper concentrator and smelter is going to be built at the drilling site; that Javelin has entered into financing agreements with British interests to provide the $500 million financing necessary for the project; that defendant Doyle and Peter La Rush, a Javelin geologist, and Vice President of Pavonia, have entered into negotiations with Brig. Gen. Omar Torrejos concerning the development of the properties; and that Javelin planned to start construction of production facilities within a month. All of these statements and the numerous other statements and press releases issued by Javelin and its officers and subsidiaries were false, misleading, untrue, and deceptive. What is in fact the case is: 1) that the copper bearing properties in question were discovered by a U.N. Development team a number of years ago and have never been proven to be of commercial significance; 2) that Javelin has been granted the right to explore the area and drill for copper only under close governmental supervision; 3) that the Government of Panama has not granted Javelin the right to

exploit the properties or to take an ounce of minerals out of the ground other than core samples; 4) that the drill holes are spaced at such wide intervals that from a geological point of view no significance could be attached to the drilling results Javelin has obtained thus far; 5) that the early drill holes failed to show acceptable gradations of copper and Javelin has obtained better results only by drilling holes deeper than a commercial mine could be expected to reach; 6) that due to Mr. Doyle's poor reputation in Panama and to other factors including economic and political considerations it is unlikely that Panama will ever grant Javelin or its subsidiaries the right to mine copper and if it did so the Government of Panama would be in a position to dictate the terms of the contract in such a way as to preclude Javelin from ever making a profit on the project and 7) even if Javelin were to get the exploitation contract it seeks it is unlikely that it could obtain the $500 million necessary to finance the project or that Javelin would ever be able to open a copper mine in Panama.

11. Defendant Lee & Martin has utilized dubious accounting methods to contrive financial statements of Javelin which do not accurately reflect the financial position of Javelin and which appear to be false and misleading on their face.

12. Javelin has filed fraudulent 10-K, 10-Q, and 8-K reports with the S.E.C. which plaintiff has purchased and read and upon which he has relied.

13. Defendant Standard & Poors Corp. has disseminated to the public and to other financial services false and contrived information about Javelin. For the twelve months ending March 31, 1973 Standard & Poors reports a profit of 3¢ per share whereas in reality Javelin reported a substantial loss.

14. Defendant Miami Herald has published at least one

newspaper article which is outrageously fraudulent and obviously designed to promote the price of Javelin shares.

15. Defendant Canada Permanent Trust Co. is the transfer agent for Javelin and made an unregistered distribution of Javelin shares in 1971 and again in 1972 as a result of a stock dividend. It did so by taking a 10% "witholding tax" on the 3% stock dividend and selling the shares in the market in order to satisfy a tax liability of Javelin. The S.E.C. denied Javelin a no action letter on this issue and said denial was ignored by defendants Javelin and Trust (C.C.H. Fed. Sec. C. Rep. ('71-'72 transfer binder #78,337)).

16. Defendant John Bouchard has acted in concert with defendants Doyle and Wismer to promote the price of Javelin shares and has caused Bouchard & Co. to make a firm recommendation of Javelin.

17. Defendant Pickands, Mather & Co. is the sole source of income for Javelin. It has participated in a scheme to defraud both creditors and shareholders of Javelin by the irregular method by which it makes royalty payments to Javelin. Pickands frequently does not make royalty payments directly to Javelin but instead makes such payments to creditors or other individuals and legal entities as directed by Javelin and its officers.

18. Defendant Wright Engineers Ltd. is a Vancouver mining consulting firm. It has participated in a scheme to defraud by the issuance of favorable feasibility reports to the public and the failure to issue unfavorable feasibility reports and other information about the exploration concession Javelin has in Panama and by providing credence for the fraudulent statements of Javelin.

19. Defendant Dyer is the specialist in Javelin on the Amex. Dyer is responsible for buying and selling Javelin and controlling the market in Javelin shares. It has the obligation

to inform Amex officials if Javelin appears to be the subject of a market manipulation. During the months of July, August and September, 1973 when Javelin was the subject of a market manipulation, Dyer ignored this obligation. Defendants Bouchard & Co., Timmins, Loeb, Rhoades & Co. ("Loeb") and Dyer have been consistent buyers of Javelin and aided in the market manipulation of Javelin shares. On many days Timmins alone accounted for more than half the Javelin shares traded. The sixteen stock brokerage firms named as defendants to this action accepted buy and sell orders from defendant or were involved in the trading of Javelin shares or in the purchase, sales, and borrowings of Javelin shares which led to the damages suffered by plaintiff.

20. On or about June 20, 1973 Fernando Manfredo, Minister of Commerce and Industry of Panama stated in a press conference that the Government of Panama had cut off negotiations with Javelin until Panama completed the drafting of a new mining code. This press conference was reported widely in Panama and carried on the United Press International news wires dated June 20, 1973. It was reported in a Montreal newspaper the following morning. However, this story was not carried in any Dow Jones & Co. publication or in any other American newspaper known to plaintiff. Plaintiff was told of the U.P.I. story by Nick Thomas of Dow Jones & Co. in Montreal and later plaintiff obtained the original release from U.P.I. in New York.

21. On the morning of June 21, 1973 an officer of Javelin called Steven Gerard of the Amex. Gerard is the officer of the Amex who is responsible for supervising any affairs involving Javelin. Javelin requested that the Amex halt trading in Javelin shares because of the unfavorable news release. On that date plaintiff held a substantial short position in Javelin. He had entered purchase orders with

with various stock brokers who were members of the Amex including defendants Pressman, Frohlich & Frost, Inc., Wood, Walker & Co., and Edwards & Hanly which, had those orders been filled, would have covered his entire short position. However, because Javelin was halted from trading on that day and the days immediately following, plaintiff was prevented from covering his short. Thereafter, Javelin issued a news release to counter the previous unfavorable story in the Montreal newspaper. Dow Jones & Co. printed this news release without making any reference to the previous U.P.I. news release. Most Javelin shareholders never learned why trading was halted in Javelin shares on June 21. Javelin opened at a price of 7 and started to rise immediately thereafter. Plaintiff purchased some shares through Wood, Walker, & Co. and Edwards & Hanly but could not buy enough to cover his short position.

22. On July 5, 1973 the Dow Jones News Wire carried a story that Bison Petroleum & Minerals Ltd., a 61% owned subsidiary of Javelin, had acquired a 200,000 acre mineral concession in Panama. When plaintiff heard of this story he placed a call to the Republic of Panama. Plaintiff reached Fernando Manfredo on the telephone at about 5:30 P.M. that day. He read the story on the Dow Jones wire to Manfredo. Manfredo told plaintiff that the story was not true because I) Panama does not sell mineral concessions but grants concessions and these concessions are non-transferable and non-assignable; II) The Government of Panama had dealt only with Pavonia, S.A., a Panamanian Corporation, and had never heard of Bison; III) Panama had cut off all negotiations with Pavonia and Javelin; and IV) Panama was not granting any new mineral concessions until its new mining code was drawn up which would take at least a month.

23. Within fifteen minutes after he spoke to Manfredo, plaintiff called Stuart Pinkerton of Dow Jones & Co. in Montreal and told him what Manfredo had said. He informed Pinkerton

that the news release on the Dow Jones wire was untrue. Pinkerton expressed a total lack of interest inthe matter. Plaintiff also placed calls to Larry Grimes of the S.E.C. in Washington, D.C. and Steven Gerard of the American Stock Exchange. He informed them of this matter as soon as he could reach them. Grimes is in charge of handling all matters at the S.E.C. with respect to Javelin. Plaintiff knew these individuals because he spoke to them on many occasions about Javelin prior to that time. He has also spoken to them several times since.

24. Plaintiff made these calls because at that time he was a short seller of Javelin and he was afraid that the release of false news information about Javelin might cause a rise in price and result in a great financial loss to plaintiff. Also, in accordance with the S.E.C. rules on insider information, plaintiff had an obligation to inform the S.E.C., the Amex, and the appropriate news media in that order of any information, favorable or unfavorable which he might have on a company. Furthermore, plaintiff was a trader in Javelin. Under the S.E.C. rules he was required to use due diligence to find out all he could about the companies in which he traded. As a market maker he had a further obligation under certain conditions to effect stabilizing transactions.

25. Because he was unsatisfied with the response he got from Stuart Pinkerton, plaintiff called Tom Mitchell of Dow Jones & Co. in New York the next morning. On that day a false article appeared in the Wall Street Journal which made the same untrue statements as had appeared on the Dow Jones News Wire the previous day. Mitchell said to plaintiff, "Everyone knows that Javelin lies." He promised he would look into the matter.

26. The resulting inquiry from their New York office

caused Dow Jones & Co. in Montreal to call plaintiff. Plaintiff gave them Manfredo's telephone number in Panama. The next week plaintiff spoke to Nick Thomas of Dow Jones & Co. in Montreal on the telephone. Thomas told plaintiff that they had spoken to both Manfredo and Doyle on the telephone over the previous weekend and that Manfredo had told Thomas exactly what Manfredo had told plaintiff as described in paragraph 22. Thomas said that Dow Jones & Co. was about to publish an article concerning these events. That article never appeared. However, a few days later, Dow Jones and Co. did publish an article reporting a telephone interview with defendant John C. Doyle which further created a false and misleading impression with the public.

27. Subsequently, plaintiff called Mitchell to learn the results of his inquiry. Mitchell said that he had referred plaintiff's complaint to Stuart Pinkerton. Mitchell told plaintiff that Pinkerton had said that he had checked it out with government officeials in Panama and found the story to be true. Plaintiff told Mitchell that the Montreal office had told plaintiff exactly the opposite. Mitchell refused to look into the matter any further and told plaintiff that if he had any more questions he should call Pinkerton directly.

28. On a subsequent weekend plaintiff went to Montreal to visit the offices of Dow Jones & Co. He spoke to Bob Cameron there. The following Monday he received a telephone call from Stuart Pinkerton. Pinkerton told plaintiff not to talk to his staff reporters any more. He said that if plaintiff had a legitimate news item about Javelin he should call Pinkerton. Plaintiff objected on the ground that Dow Jones & Co. was making a practice of publishing false news information about Javelin and plaintiff felt he had a duty to protect himself and inform them of that fact. Plaintiff also wrote Dow Jones & Co. a letter advising them he would consider taking legal

action if they did not print a retraction of the previous false news releases that had appeared in their various publications. In their reply, Dow Jones & Co. denied that these news releases were false. Dow Jones & Co. maintained this position until October 25, 1973 when it admitted in the Wall Street Journal in articles printed on October 25, 1973 and October 30, 1973 that the previous articles published were untrue.

29. Under normal conditions Javelin only traded a few thousand shares a day. However, after the July 5 news release it began a sudden and swift rise in price. Javelin averaged more than 50,000 shares per day and usually was at or near the top of the most active list on the Amex. On many days the volumeof Javelin in Montreal exceeded the volume on the Amex. On July 26, 1973 Javelin reached the price of 14 5/8. Plaintiff was experiencing a servere financial setback. Accordingly plaintiff decided to go to Panama the next day in order to see the copper drilling site in the Cerro Colorado area.

30. Late in the afternoon of July 26 plaintiff received a telephone call from Barry Newman, staff reporter of the Wall Street Journal. Newman told plaintiff he had gotten plaintiff's name from the Montreal office of Dow Jones & Co. He asked plantiff various questions.

31. On the morning of Friday, July 27 plaintiff arrived in the Republic of Panama. He went to see the Department of Mineral Resources in Panama and spoke to Jaime Roquebert, the Deputy Director of Mining Resources. Mr. Roquebert had a large three-dimensional scale model of the Javelin drilling project in his office. Mr. Roquebert introduced plaintiff to Dr. Quiros, the Director of Mining Resources. Altogether, plaintiff spoke to Mr. Roquebert and Dr. Quiros for about two hours. After these conversations plaintiff went to the headquarters of Javelin International, S.A. at 33 Avenida Frederico Boyd.

He spoke to Peter La Rush and asked Mr. La Rush for permission to visit the Cerro Colorado drilling site. Mr. La Rush made arrangements for plaintiff to make the trip. Plaintiff took a room at the Hotel El Panama, formerly the El Panama Hilton, of which Mr. Doyle owns a controlling interest. He met Mr. Doyle in the lobby of the Hotel and told Mr. Doyle he would be visiting the drilling site the next morning.

32. On the morning of July 28, plaintiff took a commercial flight to David, R.P. and flew to the Cerro Colorado drilling site on a supply airplane chartered by Javelin. He climbed around the Andes Mountains looking at drill holes and core samples all day. He talked to the geologists at the drilling camp and spent the night there. Early the next morning he was flown out of the drilling camp and was back in the U.S. the same evening.

34. The next day Steven Gerand asked plaintiff how he liked his trip to Panama. Plaintiff had not told anybody that he had been to Panama the previous weekend. The same day defendant Wismer wrote plaintiff a letter on Javelin stationary stating that Javelin would hold plaintiff liable for anything he said about the drilling project.

35. Subsequently, either Steven Gerand or other officers of the Amex contacted officers or employees of defendants Chartered New England Corp., Dominek & Dominek, Inc., Edwards & Hanly ("Edwards"), Loeb, E.S. Moseley, Estabrook, Muller & Co., Wood, Walker & Co. and perhaps other members of Amex including other defendants to this action. Said officer of Amex instructed all of these defendants to cancel all sell

orders and contractual commitments they might have with plaintiff on the ground that these sell orders and contractual commitments violated the rules of the Amex. Said Amex officers also contacted defendants Loeb, Timmins, and Dyer, who were the ultimate buyers of most of the Javelin shares that were sold and urged them to cancel all buy-ins in Javelin. As a result, all sell and buy orders and contractual commitments of plaintiff to sell and deliver Javelin shares to Amex members were cancelled unilaterally by said Amex members.

35. After these trades were cancelled, certain brokers contacted plaintiff and demanded that plaintiff pay the difference between the contract price and the market price of Javelin shares. Some brokers harassed and coerced plaintiff or resorted to fraud and larceny in order to obtain property of plaintiff.

36. Ed Muller and Marvin Weiselberg, partners of defendant Muller & Co., alternated visits and telephone calls to the office of plaintiff and did various things to coerce plaintiff to turn over property to them. Finally, when Ed Muller and his son stayed in plaintiff's office for more than an hour and a half and refused to leave the office, plaintiff was forced to call the New York City Police in order to have them forcibly removed. An officer of Chartered New England Corp. was present when it was necessary for him to call the police on Muller.

37. On August 15 plaintiff obtained 1000 shares of Canadian Javelin. He chose to deliver this 1000 shares to defendant Edwards & Hanly because Edwards was the only broker who had not contacted him concerning the matter. He called the office of Bob Della, chashier at Edwards, to request that plaintiff be allowed to deliver the 1000 shares of Canadian Javelin Ltd. against immediate payment of about $13,000 in accordance

with the NASD rules and the custom and practice of the securities industry. A clerk who worked for Mr. Dolla agreed to accept the delivery and to pay the agreed upon sum upon delivery. Accordingly, plaintiff personally delivered those shares to the offices of Edwards. The clerk at the receive window took the shares and told plaintiff it would take about an hour to prepare the check. While waiting for the check plaintiff returned to his office and there he received a telephone call from Arthur Foote, a managing partner in Edwards & Hanly. Foote told plaintiff that he, Foote, had instructed his cashiers department not to pay plaintiff the money and not to return the shares to plaintiff. Plaintiff demanded that Edwards return the shares to him. This demand was refused.

38. This illegal act by Edwards caused a severe financial crisis to plaintiff. He sought aid from the NASD, the S.E.C., the New York Stock Exchange, the Amex, the New York City Police, the District Attorney, and the U.S. Attorney. All of these agencies referred plaintiff to the courts. Subsequently, plaintiff filed a formal complaint with the NASD in order to obtain recovery of the shares. Edwards responded by commencing an action in the New York State Supreme Court and obtained an order of attachment signed by Judge Vincent A. Lupiano. Edwards then turned over to the Sheriff the shares it had illegally converted from plaintiff in order to satisfy the order of attachment. At the time it turned over the shares Javelin was selling for 18. Plaintiff called the attorneys for Edwards and asked them to at least sell the shares in order to obtain the benefit of the high price of Javelin. However, the shares were never sold.

39. As a result of these events including the actions of defendant Edwards, plaintiff was forced to close his office and go out of business. His last day in business was August 16. On that day he sent a telegraphic message to the S.E.C.

pursuant to rule 17(a)-11 informing them that he was closing his business as a result of actions undertaken by Edwards & Hanly. Under the circumstances, it would have been a violation of the S.E.C. Rules for plaintiff to stay in business. His credit rating and the professional reputation he had established as a result of three and one half years in the securities business had been destroyed.

40. Since that time he has been hunted and hounded by officers, employees, agents, and attorneys of the various stock brokerage defendants as well as by the F.B.I. and the S.E.C. Plaintiff paid $14,000 to Wood, Walker & Co., $8,000 in cash and securities to Chartered New England Corp., $10,000 in cash and securities to Muller & Co. and $8300 to Edwards & Hanly for a mark to market on a stock loan, of Javelin, in addition to the 1000 shares of Javelin that were illegally siezed by defendant Edwards. Civil actions were commenced in the New York State and City Courts by defendants Pressman, Frohlich & Frost, Inc., Chartered New England Corp., and Weis & Baer, Inc., as well as by Edwards. Other defendants demanded the payment of moneys by plaintiff. The total amount of damages claimed by the various defendants, including the amount actually paid by plaintiff to various defendants, came to $170,000.

41. Plaintiff is entitled to recover damages of $170,000 for trading in Javelin. In addition plaintiff has been damaged to the extent of $2,000,000 for loss of business, loss of credit rating, harassment by the various defendants the F.B.I. and the S.E.C., and by the other events described in this complaint. In addition plaintiff is entitled to punitive and exemplary damages in the amount of $5,000,000, especially in view of the long and notorious history of securities fraud involving Javelin and other defendants and the likelihood that this fraud will be repeated.

WHEREFORE, plaintiff demands:

I. Judgement in the amount of $2,170,000 actual damages plus $5,000,000 punitive and exemplary damages plus costs and interest.

II. That this action be tried by jury.

/S/
SAMUEL H. SLOAN

Sworn to before me this
7 day of November, 1973.

AFFIDAVIT OF PERSONAL SERVICE

STATE OF NEW YORK)
: SS.:
COUNTY OF RICHMOND

EDWARD BAILEY, being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 286 Richmond Avenue, Staten Island, N.Y. That on the 4th day of Sept 1975, deponent served the within supplemental app. upon the following appellees at the addresses indicated herein, by delivering a true copy thereof to each of them personally. Deponent knew the persons so served to ~~the~~ be the persons mentioned and described in said papers as the Appellees therein:

Diamond & Golomb, Attorneys for Canadian Javelin, 99 Park Avenue, New York, N.Y.
Booth & Baron, Attorneys for McGraw-Hill and Standard & Poors, 122 E. 42nd St., NYC
Lord, Day & Lord, Attorneys for American Stock Exchange, 25 Broadway, NYC
Patterson, Bellknapp & Webb, Attorneys for Dow, Jones and Pinkerton, 30 Rockefeller Plaza, NYC
Sullivan & Cromwell, Attorneys for Bache & Co. and Miami Herald, 48 Wall St., NYC
Delson & Gordon, Attorneys for Edwards & Hanly, Arthur Foote, Robert Della and Raymond Aronson, 230 Park Ave., NYC
Butowsky, Schwenke & Devine, Attorneys for Weiss & Baer, 230 Park Ave., NYC
[redacted]
Breed, Abbott & Morgan, Attorneys for Burns Bros. & Timmins, 1 Chase Manhattan Pl., NYC
Leonard Toboroff, Atty. for Chartered New England Corp., F. S. Moseley and Estabrook, Inc., 400 Park Ave., NYC
[redacted]
Stroock, Stroock & Lavan, Attys. for Loeb, Rhodes, 61 Broadway, NYC
Abraham L. Bienstock, Attys. for dyer, Maguire, Dritz, 30 Broad St., NYC
Paul Scott, Atty. for Pressman, Frohlick & Frost, 1 State St. Plaza, NYC
Olitt, Friedberg & Kagel, Attys. for Muller & Co., 200 Park Ave., NYC.
Cravath, Swaine & Moore, Attys. for Pickands, Mather, 1 Chase Manhattan Pl., Nyc
Malcolm A. Hoffman, Atty. for Wright Engineers, 12 E. 41st St., NYC
Lunney & Crocco, Attys. for Wood, Walker, 20 Exchange Place, NYC
Sibberfeld, Danziger & Bangser, Attys. for World Mining, 230 Park Avenue, NYC
Satterlee & Stephens, Attys. for Watts, Griffis & McQuat, 277 Park Ave., NYC

Sworn to before me this 4th
day of Sept., 1975

William Bailey

Notary Public, State of New York
No. 43-0132945
Qualified in Richmond County
Commission Expires March 30, 1976

Edward Bailey